UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

GLOBAL HORIZONS, INC., d/b/a Global Horizons Manpower, Inc.; GREEN ACRE FARMS, INC.; VALLEY FRUIT ORCHARDS, LLC; and DOES 1-10 inclusive,

Defendants.

No.: CV-11-3045-EFS

ORDER RULING ON THE EEOC'S MOTIONS TO COMPEL DISCOVERY RESPONSES FROM THE GROWER DEFENDANTS

A hearing occurred in the above-captioned matter on December 19, 2013, in Richland. Plaintiff Equal Employment Opportunity Commission (EEOC) was represented by Derek Li. Beth Joffe appeared on behalf of Defendants Green Acre Farms, Inc. and Valley Fruit Orchards, LLC (collectively, "Grower Defendants"). Before the Court were the EEOC's Motion to Compel Defendant Green Acre to Respond to EEOC's First Requests for Production of Documents and Interrogatories, ECF No. 442, and Motion to Compel Defendant Valley Fruit to Respond to EEOC's First Requests for Production of Documents and Interrogatories, ECF No. 443. After reviewing the record and relevant authority and hearing from counsel, the Court is fully informed. This Order supplements and

memorializes the Court's oral rulings, which are guided by the following discovery and Title VII principles.

The EEOC may engage in discovery to seek nonprivileged information that is relevant to any claim or defense of any party. Fed. R. Civ. P. 26(b)(1). Discoverable information need not be admissible but must "appear[] reasonably calculated to lead to the discovery of admissible evidence." *Id.* The Grower Defendants, as the party responding to the instant discovery, may seek protection from discovery requests due to "annoyance, embarrassment, oppression, or undue burden or expense." *Id.* at 26(c)(1).

The EEOC maintains that its written discovery reasonably seek information relevant to its Title VII, 42 U.S.C. 2000e-2, claims brought on behalf of individuals from Thailand who worked at the Grower Defendants' orchards in 2004 and 2005 pursuant to H-2A guest-worker visas, and the Defendants' defenses thereto. VII dictates that it "shall be an unlawful employment practice for an employer . . . to discharge any individual, or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin." U.S.C. § 2000e-2(a)(1); see Faragher v. City of Boca Raton (analyzing hostile work environment).

In connection with the Grower Defendants' prior motions to dismiss, the Court found the First Amended Complaint, ECF No. 141,

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plausibly alleges that the Grower Defendants employed¹ the Claimants in regard to "orchard-related matters." ECF No. 178 at 7. Specifically, the Court found the First Amended Complaint alleges hostile-work-environment and constructive-discharge claims (and related pattern-and-practice claims) against the Grower Defendants based on the following orchard-related employment actions on account of the Thai Claimants' race and national origin:

- the Claimants were disciplined and yelled at if their work was not properly done, ECF No. 141 $\P\P$ 127 (Green Acre) & 233 (Valley Fruit);
- the Claimants were subject to deplorable working conditions, id. ¶¶ 131 (Green Acre) & 189 (Valley Fruit);
- the Claimants had to work four hours without a break, id. ¶ 148 (Green Acre);
- the Claimants had to do more difficult work than the workers of Mexican descent, id. ¶¶ 150 (Green Acre) & 214-16 (Valley Fruit);
- the working conditions became so intolerable that the Claimants felt compelled to escape, id. ¶¶ 162 (Green Acre) & 228 (Valley Fruit);
- the Claimants were harassed and threatened to meet quotas, id. ¶¶ 163-67 (Green Acre) & 229-32 (Valley Fruit);
- the Claimants were told that their work was not good enough, id. ¶ 185 (Green Acre); and
- the Claimants were required to continue working in 100 degree weather, id. ¶ 218 (Valley Fruit).

ECF No. 178 at 11. The Court also found the First Amended Complaint's orchard-related factual allegations plausibly state a claim of

¹ As required by Title VII's express terms, an employment relationship must exist in order for these protections to apply. Lutcher v. Musicians Union Local 47, 633 F.2d 880, 883 (9th Cir. 1980). Here, the Grower Defendants dispute that they employed the Thai Claimants, maintaining that Defendant Global Horizons solely employed the Thai Claimants.

retaliation (and related pattern and practice claim) against Green Acre. Id. at 12.

In August 2012, shortly after the Court's ruling on the motions to dismiss, the EEOC served the Grower Defendants with the written discovery requests that are now at issue. ECF Nos. 444-1, -2, -3, & -4. As a general principle, the EEOC's discovery requests are grossly overbroad: seeking information and documents from an eleven-year period and requesting many different types of documents information through a single discovery request. During the process of preparing its motion and reply, the EEOC modified the temporal span for many of its discovery requests to 2003-2006. This is a more reasonable time period for most requests. To eliminate overbroad and oppressive discovery requests, the Court encourages the EEOC to ask specific questions when drafting written discovery requests. Ву tailoring discovery to pertinent time periods and limiting the scope of a written discovery request to documents and/or information that are reasonably likely to lead to the discovery of admissible information, the parties (and the Court) will expend less time and resources on discovery matters.

In addition to the Grower Defendants' challenge to the excessive scope of the EEOC's discovery requests, the Grower Defendants challenge the discovery requests that pertain to the Grower Defendants' knowledge and conduct as to non-orchard-related incidents and alleged wrongdoings by Global. The EEOC maintains that these discovery requests are relevant to its legal argument that the Grower Defendants are jointly liable for Defendant Global Horizons, Inc.'s

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("Global") wrongdoings. The EEOC's legal argument is based on language contained in EEOC v. Global Horizons, 860 F. Supp. 2d 1172 (D. Haw. 2012), wherein the Hawaii District Court determined that the EEOC's complaint in that lawsuit alleged sufficient facts to plausibly suggest the existence of a joint-employment relationship between Global and the other defendants. The EEOC relies in part on the Hawaii District Court's statement, "whether these [d]efendants are liable for the alleged Title VII violations will depend on what they knew, or should have known, and how they acted." Id. at 1184. statement must be read in the context of the preceding citation The cited and quoted cases all recognize that in parentheticals. order for an entity to be held liable under Title VII that entity must 1) be an "employer" of the plaintiff and 2a) have discriminated against the plaintiff by its own conduct, or 2b) knew or should have known of a joint employer's discriminatory conduct against the plaintiff in a matter within the entity's control, and the entity failed to take measures within its control to correct the employer's discriminatory conduct. See Lima v. Addeco, 634 F. Supp. 2d 394, 400 (S.D.N.Y. 2009) ("[O]ther courts have found that even when a plaintiff establishes an entity's status as part of a employer, the plaintiff must still show 'that the joint employer knew or should have known of the [discriminatory] conduct and failed to take corrective measures within its control." (quoting Watson v. Adecco Empl. Servs., Inc., 252 F. Supp. 2d 1347, 1356-57 (M.D. Fla. 2003)); see also Velez v. Roche, 335 F. Supp. 2d 1022 (N.D. Cal. 2004) (recognizing that an indirect employer is only liable if it has the

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power to take corrective measures to stop the direct employer's discriminatory practice and fails to do so).

With these legal standards in mind, the Court sets forth its ruling as to each discovery request.² The written discovery requests submitted to Green Acre and Valley Fruit are the same for all intents and purposes; and the Grower Defendants' responses to the written discovery are largely the same. Accordingly, the Court's rulings apply to each of the EEOC's motions.

A. REQUESTS FOR PRODUCTION (RFP)

IJ			
	RFP No. and Description	RFP language	Court Ruling
	RFP 1 (List of	IDENTIFY and produce all DOCUMENTS identifying and/or reflecting an	DENIED AS MOOT.
	Workers and	employee list containing the name,	The Grower
	Contact	the national origin and/or race,	Defendants'
	Info.)	the last known home address(es), telephone number(s), positions(s)	disclosures for 2004 and 2005 for
		held, and the start date and end	individuals who did
		date of each employee, each H-2A	the same jobs as the
		worker, and each independent	Thai Claimants are
		contractor, who has worked and/or has been working at, for, or	sufficient. Requiring additional
		through GREEN ACRE [VALLEY FRUIT]	information will be
		from January 1, 2003 to [December	unduly prejudicial
		31, 2006]. Please provide the	and is not likely to
		foregoing in an electronic format.	lead to the discovery of admissible
			information.
			III or madroir.
			When disclosing
			Social Security
			numbers, the Grower Defendants may
			disclose this
			information in the
			same fashion as the
П			EEOC does.
	RFP No. 2	IDENTIFY and produce all DOCUMENTS	DENIED AS MOOT
	(Doc. of	identifying and/or reflecting the	ml
П	Workers'	number of hours worked, including	The Grower

 $^{^{2}\,}$ The discovery-request language reflects any modifications by the EEOC.

1	Wages/Hours)	but not limited to the number of	Defendants'
		hours worked per day and/or per	disclosures for 2004
2		week, and the wages paid to each GREEN ACRE'S [VALLEY FRUIT's]	and 2005 for individuals who did
3		employee, each H-2A worker, and	the same jobs as the
3		each independent contractor, who	Thai Claimants are
4		has worked at, for, or through	sufficient.
-		GREEN ACRE [VALLEY FRUIT], from	
5		January 1, 2003 to [December 31, 2006].	Requiring additional information will be
		2000].	unduly prejudicial
6			and is not likely to
			lead to the discovery
7			of admissible
	7 7		information.
8	RFP No. 4 (Docs. of	IDENTIFY and produce all DOCUMENTS which set forth, evidence or	DENIED AS MOOT
	Business/Fin.	pertain to GREEN ACRE'S [VALLEY	The Grower
9	Relationship	FRUIT's] business and/or financial	Defendants'
	between	relationship and/or interactions	disclosure of all
10	Defendants	with Global Horizons Inc., and/or	written
11	and Global)	employees and/or agents of Global	communications between the Grower
11		Horizons, Inc. including but not limited to all contracts,	Defendants and Global
12		agreements, letters, memoranda,	pertaining to the
12		email, and/or communications	activities of 2004
13		pertaining to the services,	and 2005 is
13		employee control and/or	sufficient.
14		supervision, hours worked,	The additionally
		invoices, and billing, communications regarding any	The additionally requested information
15		applications for Labor	is not likely to lead
		Certifications for H2-A workers,	to the discovery of
16		marketing materials GREEN ACRE	admissible
		[VALLEY FRUIT] obtained pertaining	information and will
17		to Global Horizons, Inc., and DOCUMENTS GREEN ACRE [VALLEY FRUIT]	be unduly burdensome.
1.0		obtained pertaining to any workers	
18		provided to GREEN ACRE [VALLEY	
19		FRUIT] by Global Horizons, Inc.	
19	RFP No. 6	IDENTIFY and produce any and all	DENIED AS MOOT
20	(Documents of	DOCUMENTS reflecting any	ml. G
20	Communication Between	COMMUNICATIONS between GREEN ACRES'/VALLEY FRUIT'S employees	The Grower Defendants'
21	Global and	and/or agents, including but not	disclosure of all
	Defendants)	limited to Jim S. Morford, Gary	written
22	<u> </u>	Morford, Kevin Boyle, Mike Van	communications
		Pelt, and Gerardo Valladares [John	between the Grower
23		Martin Verbrugge, Peter Verbrugge,	Defendants and Global
		Scott Jacky, Stan Beuchler, Dirk Dunn, and Stanley Buechler], and	pertaining to the activities of 2004
24		Global Horizons, Inc.'s employees	and 2005 is
		and/or agents, including but not	sufficient.
25		limited to Mordechai Orian, from	
		January 1, 2003 to the present.	The additionally
26			requested information

RFP No. 7 (Docs. 0f Defendants' Management and/or Structure, and Stenders Personnel files and Gerardo Valladares [John Martin Verbrugge, Peter Verbrugge, Scott Jacky, Stan Beuchler, Dirk Dunn, and Stanley Buechler], from January 1, 2003 to the present, including but not limited to DOCUMENTS reflecting GREEN ACRE'S [VALLEY FRILT's I organizational and/or management hierarchy and/or structure, and the complete PERSONNEL FILE of each manager and/or supervisor, including, but not limited to, DOCUMENTS reflecting GREEN ACRE'S [VALLEY FRILT's] organizational and/or management hierarchy and/or structure, and the complete PERSONNEL FILE of each manager and/or supervisor, including, but not limited to, employment applications, resumes, cover letters, letters of recommendation, references, certificates of achievement, commendations, disciplinary warnings and/or written reprimands, payroll data, and/or background checks. RFP No. 11 [DENTIFY and produce all DOCUMENTS of the requirements of H2-A visas and/or table for their discriminatory conduct, or a joint employer's discriminatory conduct as to matters within the Grower Defendants' control and about which they knew and failed to take corrective measures within the Grower Defendants control per the Farm	-			i 1:11 +- 1
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diplomas, interview notes, performance evaluations, disciplinary warnings and/or written reprimands, payroll data, and/or background checks. RFP No. 11 (Docs. Of that reflect Green Acre's [Valley Fruit's] knowledge of the Knowledge of H-2A Visas/Labor Certification, including but not limited to any trainings and/or educational materials on the duties to comply with the H-2A requirements, from January 1, 2003 to the present. DENIED As set forth above, the Grower Defendants are only liable for their discriminatory conduct, or a joint employer's discriminatory conduct as to matters within the Grower Defendants' control and about which they knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	13			
disciplinary warnings and/or written reprimands, payroll data, and/or background checks. RFP No. 11 IDENTIFY and produce all DOCUMENTS (Docs. Of Defendants' Knowledge of H-2A Visas and/or Labor Certification, including but Visas/Labor not limited to any trainings and/or educational materials on the duties to comply with the H-2A requirements, from January 1, 2003 to the present. As set forth above, the Grower Defendants are only liable for their discriminatory conduct, or a joint employer's discriminatory conduct, or a joint employer's discriminatory conduct as to matters within the Grower Defendants' control and about which they knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	1.4			
written reprimands, payroll data, and/or background checks. RFP No. 11 (Docs. Of Defendants' Fruit's] knowledge of the Knowledge of H-2A Visas and/or Labor Certification, including but Not comply with the H-2A requirements, from January 1, 2003 to the present. Cert. Req.) written reprimands, payroll data, and/or background checks. DENIED DENIED As set forth above, the Grower Defendants are only liable for their discriminatory conduct, or a joint employer's discriminatory conduct, or a joint employer's discriminatory conduct as to matters within the Grower Defendants' control and about which they knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	14			
RFP No. 11 (Docs. Of Defendants' Knowledge of H-2A Visas/Labor Cert. Req.) 18	15			
(Docs. Of Defendants' Knowledge of the Fruit's] knowledge of the requirements of H2-A visas and/or Labor Certification, including but Visas/Labor Cert. Req.) 20 Cert. Req.) 20 Cert. Req.) 21 Cert. Req.) 22 Cert. Req. 23 Cert. Req. 24 Cert. Req. 25 Cert. Req. 26 Cert. Req. 27 Cert. Req. 28 Cert. Req. 29 Cert. Req. 20 Cert. Req. 20 Cert. Req. 20 Cert. Req. 20 Cert. Req. 21 Cert. Req. 22 Cert. Req. 23 Cert. Req. 24 Cert. Req. 25 Cert. Req. 26 Cert. Req. 27 Cert. Req. 28 Cert. Req. 29 Cert. Req. 20 Cert. Req. 20 Cert. Req. 20 Cert. Req. 20 Cert. Req. 21 Cert. Req. 22 Cert. Req. 23 Cert. Req. 24 Cert. Req. 25 Cert. Req. 26 Cert. Req. 27 Cert. Req. 28 Cert. Req. 29 Cert. Req. 20 Cert. Req. 21 Cert. Req. 22 Cert. Req. 23 Cert. Req. 24 Cert. Req. 25 Cert. Req. 26 Cert. Req. 27 Cert. Req. 28 Cert. Req. 29 Cert. Req. 20 Cert. Req. 21 Cert. Req. 22 Cert. Req. 23 Cert. Req. 24 Cert. Req. 25 Cert. Req. 26 Cert. Req. 27 Cert. Req. 28 Cert. Req. 29 Cert. Req. 20 Cert. Req. 21 Cert. Req. 22 Cert. Req. 22 Cert. Req. 23 Cert. Req. 24 Cert. Req. 25 Cert. Req. 26 Cert. Req. 27 Cert. Req. 28 Cert. Req. 29 Cert.	1.0			
Knowledge of H-2A visas and/or Labor Certification, including but not limited to any trainings and/or educational materials on the duties to comply with the H-2A requirements, from January 1, 2003 to the present. 21 22 23 24 25 26 27 28 29 20 20 21 21 22 23 24 25 26 27 28 28 29 20 20 20 20 21 21 22 23 24 25 26 27 28 28 29 20 20 20 20 20 20 20 20 20 20 20 20 20	Τ0			DENIED
H-2A Visas/Labor Cert. Req.) Labor Certification, including but not limited to any trainings and/or educational materials on the duties to comply with the H-2A requirements, from January 1, 2003 to the present. 21 22 23 24 25 H-2A Visas/Labor Certification, including but not limited to any trainings and/or educational materials on the duties to comply with the H-2A requirements, from January 1, 2003 discriminatory conduct as to matters within the Grower Defendants' control and about which they knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	17		Fruit's] knowledge of the	,
Visas/Labor Cert. Req.) not limited to any trainings and/or educational materials on the duties to comply with the H-2A requirements, from January 1, 2003 to the present. to the present. their discriminatory conduct, or a joint employer's discriminatory conduct as to matters within the Grower Defendants' control and about which they knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	1.0			
to comply with the H-2A requirements, from January 1, 2003 to the present. conduct as to matters within the Grower Defendants' control and about which they knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	10		not limited to any trainings and/or	their discriminatory
requirements, from January 1, 2003 to the present. discriminatory conduct as to matters within the Grower Defendants' control and about which they knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	19	Cert. Req.)		=
within the Grower Defendants' control and about which they knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	20		requirements, from January 1, 2003	discriminatory
Defendants' control and about which they knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	20		to the present.	
knew and failed to take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	21			Defendants' control
take corrective measures within their control. The documents sought by this RFP are not matters within the Grower Defendants'	22			_
control. The documents sought by this RFP are not matters within the Grower Defendants'	22			take corrective
by this RFP are not matters within the Grower Defendants'	23			
by this RFP are not matters within the Grower Defendants'	24			The deguments sought
Grower Defendants'	_			
	25			matters within the
	26			

1			Labor Contractor H-2A
			Agreements.
2	RFP No. 12 (Docs. Of	IDENTIFY and produce all DOCUMENTS pertaining to any and all	DENIED
3	Communication Between	COMMUNICATIONS between GREEN ACRE [VALLEY FRUIT], the U.S. Department	As set forth above, the Grower Defendants
4	Defendant & Gov. Agencies	of Labor, and/or any state and/or local agencies that pertain to any	are only liable for their discriminatory
5	re: H-2A Visas/Labor	H-2A visa(s) and/or Labor	conduct, or a joint
6	Cert.)	Certifications from January 1, 2003 to the present, including but not limited to all COMMUNICATIONS	employer's discriminatory conduct as to matters
7		between and amongst GREEN ACRE [VALLEY FRUIT] and the U.S.	within the Grower Defendants' control
8		Department of Labor and/or any other federal, state and/or local	and about which they knew and failed to
		agencies regarding the H-2A workers, the working, and/or living	take corrective measures within their
9		conditions at GREEN ACRE's farm.	control.
10			The documents sought by this RFP are not
11			matters within the Grower Defendants'
12			control per the Farm Labor Contractor H-2A
13	RFP No. 13	IDENTIFY and produce all DOCUMENTS	Agreements. DENIED
14	(Docs. Of Defendants'	pertaining to any and all recruitment efforts, including, but	As set forth above,
15	Recruitment Efforts to	not limited to recruitment efforts made to obtain H2-A workers through	the Grower Defendants are only liable for
16	Obtain H-2A workers)	Labor Certifications and/or local workers for open positions for work	their discriminatory conduct, or a joint
17		offered at, for, or through GREEN ACRE [VALLEY FRUIT] from January 1,	employer's discriminatory
18		2003 through the present.	conduct as to matters within the Grower
19			Defendants' control and about which they
20			knew and failed to take corrective
21			measures within their control.
			The documents sought
22			by this RFP are not matters within the
23			Grower Defendants' control per the Farm
24			Labor Contractor H-2A Agreements.
25	RFP No. 16 (Defendants' Financial	IDENTIFY and produce all DOCUMENTS that reflect, describe or relate to GREEN ACRE'S [VALLEY FRUIT'S]	DENIED AS MOOT IN PART and GRANTED IN PART
26	Documents)	financial condition from 2003	

1		through the present including, but not limited to, financial	The Grower Defendants' financial
2		statements, annual reports, balance sheets, asset and liability	disclosures as to 2003 through 2005 are
3		statements, profit and loss statements, loan documents, leases, property titles, property tax	sufficient for their past financial condition.
4		statements, cancelled checks reflecting payment of property	Within two months of
5		taxes and/or lease payments, and/or tax returns.	trial, the Grower Defendants are to
6			provide similar financial
7			documentation for the most recently
8			completed fiscal year.
9	RFP No. 18 (Docs. Of	IDENTIFY and produce all filings regarding quarterly wages and	DENIED
10	Defendants' Quarterly	withholdings reports that GREEN ACRE [VALLEY FRUIT] filed with the	Based on defense counsel's
11	Wages/ Witholding	any state agency including but not limited to the Internal Revenue	representation, the Claimants were not
12	Reports)	Service from January 1, 2003 [to December 31, 2006].	included in the Grower Defendants'
13			quarterly wages or withholding reports.
			Therefore, requiring the Grower Defendants
14			to produce this information is not
15			likely to lead to the discovery of
16			admissible information and will
17			be unduly prejudicial.
18			The EEOC is free to
19			seek these documents from the State of Washington, and to
20			submit a Request for Admission to the
21			Grower Defendants as to their number of
22			employees during 2004 and 2005.
23	RFP No. 19 (Docs. Of	IDENTIFY and produce all DOCUMENTS reflecting trainings provided by or	DENIED AS MOOT IN PART AND GRANTED IN
24	Defendants' Trainings)	provided on behalf of GREEN ACRE [VALLEY FRUIT] to its employees, H-	PART
25	J ,	2A workers, and/or independent contractors working at, for, or	No later than January 27, 2014 , the Grower
26		through GREEN ACRE [VALLEY FRUIT] regarding compliance with Title VII	Defendants are to supplement their
1		<u> </u>	,

1		of the Civil Rights Act of 1964, as	2004-05 training-
2		amended.	document disclosure with training
			documents for their employees on the
3			subject of
4			harassment, discrimination,
5			and/or retaliation in
5			2012-13.
6			Requiring information for additional years
7			will be unduly
			burdensome and is not likely to lead to the
8			discovery of
9			admissible information.
1.0	RFP No. 20	IDENTIFY and produce all DOCUMENTS	DENIED AS MOOT IN
10	(Docs of Defendants'	that reflect GREEN ACRE'S [VALLEY FRUIT'S] policies, procedures,	PART AND GRANTED IN PART
11	Policies &	rules, and/or regulations,	
12	Procedures)	including, but not limited to GREEN ACRE'S [VALLEY FRUIT's] Employee	No later than January 27, 2014 , the Grower
12		Handbook, including all versions	Defendants are to
13		from January 1, 2003 to the present.	supplement their 2004-05 policy-
14			statements disclosure with its 2012-13
			policy statements.
15			Requiring information
16			for additional years
17			is unduly burdensome and is not likely to
± /			lead to the discovery
18			of admissible information.

B. INTERROGATORIES ("Interrog.")

Interrog. No. and Description	Interrog. language	Court Ruling
Interrog. No.	Describe with particularity all	DENIED
5 (Efforts to	efforts made by Defendant to ensure	
Ensure H-2A	Defendant's and/or Global's	As set forth above,
Compliance)	compliance with H2-A visa	the Grower Defendants
	requirements at each of Defendant's	are only liable for
	premises including but not limited	their discriminatory
	to stating Defendant's stated	conduct, or a joint
	policies, procedure, and practices	employer's
	regarding H2-A visa compliance;	discriminatory
	describing instances where	conduct as to matters

1		Defendant Clobal and/or other	within the Grower
1		Defendant, Global, and/or other	
		labor contractor at Defendant's	Defendants' control
2		premises deviated from Defendant's	and about which they
		stated policies, procedures, and	knew and failed to
3		practices regarding H2-A visa	take corrective
3		compliance; and describing all	measures within their
		audits Defendant conducted	control.
4		regarding noncompliance with	
		Defendant's stated policies,	The information
5		procedures, and practices regarding	sought by this
		H2-A visa compliance during the	interrogatory does
6		relevant time period.	not pertain to a
О		relevant time period.	matter within the
7			Grower Defendants'
			control per the Farm
8			Labor Contractor H-2A
-			Agreements.
9	Interrog. No.	Describe each inspection and/or	DENIED AS MOOT.
9	6 (Describe	investigation conducted by a	
	each Gov.	government agency of any of	The Grower
10	Investig.)	Defendant's premises [pertaining to	Defendants'
		the Claimants] during the relevant	disclosures are
11		time period. Your description	sufficient.
		should include the date of the	
12		inspection and/or investigation;	
		the government entity conducting	
1 2		the inspection and/or	
13		investigation; the property, farm,	
		and/or facility inspected and/or	
14		investigated; the purpose of the	
		inspection and/or investigation;	
15		and whether any violations were	
16		reported by the inspecting and/or	
10	T	investigating agency.	DENTED
	Interrog. No.	Describe with particularity all of	DENIED
17	7 (Efforts to	Defendant's efforts to recruit	
	Recruit H-2A	local workers and/or workers from	As set forth above,
18	Workers)	the United States ("U.S. workers")	the Grower Defendants
-		prior to using H2-A workers,	are only liable for
19		including but not limited to a	their discriminatory
12		description and/or identification	conduct, or a joint
		of all efforts to publicize or	employer's
20		advertise open positions, the terms	discriminatory
		and conditions of employment	conduct as to matters
21		offered, the number of local and/or	within the Grower
		U.S. applicants who sought	Defendants' control
22		positions with Defendant, the	and about which they
2 2		identity of the applicants, the	knew and failed to
		reason for rejecting each applicant	take corrective
23		not hired, persons who participated	measures within their
		in the recruitment process, persons	control.
24		who decided to hire and/or reject	COLLCT OT.
			The information
25		an applicant, and person who was	The information
23		the ultimate decision-maker	sought by this
26		regarding the decision to hire or	interrogatory does
26		reject an applicant during the	not pertain to a

, II			
1		relevant time period.	matter within the Grower Defendants'
2			control per the Farm
			Labor Contractor H-2A
3	Interrog. No.	Describe with particularity	Agreements. DENIED
4	8	Defendant's policies, procedures,	
4	(Defendants'	and practices for receiving,	As set forth above,
5	Procedures Relating to	reviewing, and/or verifying any and all documents pertaining to all H2-	the Grower Defendants are only liable for
	H-2A)	A worker who worked on Defendant's	their discriminatory
6		premises and/or at another premises	conduct, or a joint
7		at Defendant's direction and describing whether or not	employer's discriminatory
/		Defendant's identified policies,	conduct as to matters
8		procedures, and practices were	within the Grower
		followed as to each H2-A worker who worked on Defendant's premises	Defendants' control and about which they
9		and/or at another premises at	knew and failed to
10		Defendant's direction during the	take corrective
10		relevant time period.	measures within their control.
11			Control.
			The information
12			sought by this interrogatory does
13			not pertain to a
13			matter within the
14			Grower Defendants' control per the Farm
			Labor Contractor H-2A
15			Agreements.
16	Interrog. No.	Describe Defendant's understanding of the method of calculating pay	GRANTED IN PART AND DENIED IN PART
	(Calculating	for [orchard] workers who performed	
17	Party)	services [similar to Thai workers]	The Grower Defendants
18		on Defendant's premises during [2004-05], including a description	must answer this interrogatory (as
18		of the relationship between the	modified) as to
19		rate(s) of pay for each worker, any	orchard workers who
		applicable quotas, production, and/or planting requirements, hours	performed work similar to the
20		worked, deductions (e.g.,	Claimants on the
21		deductions related to taxes,	Grower Defendants' premises during 2004-
21		housing, food, property damages, and/or security deposits), and how	05. Yet, the scope
22		the rates of pay, quotas,	of the information
		production and/or planting	requested pertaining
23		requirements, hours worked, and deductions related to Defendant's	to the method of calculating pay is
24		payments to Global for work	much too broad and is
41		performed on Defendant's premises.	unduly burdensome.
25			No later than January 27, 2014 , the EEOC is
			to modify this
26			Interrogatory's pay-

_		T	
1			calculation language
			to a more reasonable
2	T	Demonstra with a settle of the	scope.
	Interrog. No. 16 (Def.	Describe with particularity all	DENIED AS MOOT
3	Response to	efforts made by Defendant to conduct an independent	The Grower
	Washington	investigation upon learning that	Defendants'
4	DOL	the Washington Department of Labor	supplemented answer
	Investig.)	& Industries was investigating	is sufficient.
5	111/05019.7	alleged wrongdoing affecting or	is sufficient.
		mistreatment of individuals who	
6		worked or had worked on Defendant's	
		premises.	
7	Interrog. No.	Describe with particularity all	DENIED AS MOOT
,	17 (Def.	efforts made by Defendant to	
8	Response to	conduct an independent	The Grower
0	U.S.	investigation upon learning that	Defendants'
	Department of	the U.S. Department of Labor was	supplemented answer
9	Labor	investigating alleged wrongdoing	is sufficient.
10	Investig.)	affecting or mistreatment of	
10		individuals who worked or had	
_		worked on Defendant's premises.	
11	Interrog. No.	Describe with particularity all	DENIED.
	18 (Def.	efforts made by Defendant to	
12	Response to	conduct an independent	Any investigation
	U.S. DOJ/ FBI	investigation upon learning that	conducted by the U.S.
13	Investig.)	the U.S. Department of Justice and/or the Federal Bureau of	Department of Justice
		Investigation was investigating	and/or FBI was done
14		alleged wrongdoing affecting or	years after the
		mistreatment of individuals who	Claimants worked at
15		worked or had worked on Defendant's	the Grower
		premises.	Defendants' orchards.
16	Interrog. No.	Describe each property that	DENIED
	19 (Def.	Defendant owned, leased, rented or	
17	Provision of	otherwise controlled that was used	As set forth above,
	Housing; Def.	by to provide worker housing during	the Grower Defendants
18	Knowledge of	the relevant time period. Your	are only liable for
	and Response	description should include all	their discriminatory
19	to Housing	relevant information to assess	conduct, or a joint
	Problems)	whether the housing was habitable,	employer's
20		safe, and/or compliant with H2-A	discriminatory
-		requirements and/or any other applicable governmental	conduct as to matters within the Grower
21		requirements and/or standards,	Defendants' control
		including without limitation, the	and about which they
22		location and/or address of the	knew and failed to
22		property, the square footage of the	take corrective
23		living quarters, the number of	measures within their
43		rooms and the use of each (i.e.	control.
24		bedrooms, kitchen, bathrooms,	
24		living room, etc.), the number of	The information
α-		beds in the property, whether the	sought by this
25		unit was heated and/or air	interrogatory does
_		conditioned, and if so, the heating	not pertain to a
26		and/or cooling source (i.e.	matter within the
11			

1 electric, gas, wood stove, etc.), Grower Defendants' whether there was hot and cold control per the Farm running water in the unit, what Labor Contractor H-2A 2 utilities were provided and who Agreements. paid for the utilities at each 3 property, the dates of any disruptions in service for 4 utilities, the reason for each disruption in service of utilities, 5 types of toileting facilities and the number of toileting facilities in the unit, types of bathing 6 facilities and the number of bathing facilities in the unit, 7 persons designated to make and/or authorize repairs to the property, 8 and persons responsible for ensuring control and/or abatement 9 of insects, pests, and/or rodents at the property during the relevant 10 time period. Interrog. No. DENIED For each property used to provide 11 20 (Def. worker housing, where Defendant Knowledge of learned of and/or received actual As set forth above, and Response and/or constructive notice that the the Grower Defendants 12 to Housing worker housing was not clean, not are only liable for Problems) suitable for human habitation, their discriminatory 13 and/or not compliant with H2-A conduct, or a joint and/or any other governmental employer's 14 requirements and/or standards, discriminatory describe all efforts Defendant took conduct as to matters 15 to correct and/or improve the within the Grower conditions of the housing to ensure Defendants' control 16 compliance with H2-A and/or all and about which they other applicable governmental knew and failed to requirements. take corrective 17 measures within their control. 18 The information 19 sought by this interrogatory does 20 not pertain to a matter within the 21 Grower Defendants' control per the Farm Labor Contractor H-2A 22 Agreements. 23 24 25 26

ORDER - 15

In summary, IT IS HEREBY ORDERED:

- The EEOC's Motion to Compel Defendant Green Acre to Respond to EEOC's First Requests for Production of Documents and Interrogatories, ECF No. 442, is DENIED IN PART (RFP Nos. 11, 12, 13, & 18; Interrog. Nos. 5, 7, 8, 18, 19, & 20), DENIED AS MOOT IN PART (RFP Nos. 1, 2, 4, 6, & 7; Interrog. Nos. 6, 16, & 17), GRANTED IN PART AND DENIED IN PART (Interrog. No. 10), and GRANTED IN PART AND DENIED AS MOOT IN PART (RFP Nos. 16, 19, & 20).
- 2. The EEOC's Motion to Compel Defendant Valley Fruit to Respond to EEOC's First Requests for Production Documents and Interrogatories, ECF No. 443, is DENIED IN PART (RFP Nos. 11, 12, 13, & 18; Interrog. Nos. 5, 7, 8, 18, 19, & 20), **DENIED AS MOOT IN PART** (RFP Nos. 1, 2, 4, 6, & 7; Interrog. Nos. 6, 16, & 17), GRANTED IN PART AND DENIED IN PART (Interrog. No. 10), and GRANTED IN PART AND DENIED AS MOOT IN PART (RFP Nos. 16, 19, & 20).

The Clerk's Office is directed to enter this IT IS SO ORDERED. Order and provide copies to counsel.

DATED this 15th day of January 2014.

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EDWARD F. SHEA Senior United States District Judge

s/Edward F. Shea